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approach to define over U.S. patent No. 5,096,071 to Neri. That approach is embodied now in independent system claims 15 and 29 in this second supplemental amendment.

The other independent claim sets, other than the original patent claims, are cancelled by this amendment, namely claims 38-50, inclusive.

In addition to distinguishing over Neri, the amendment addresses all of the indefiniteness points still raised by the Examiner Cooley following the first supplemental amendment filed in November 2002. With respect to the drawing issue raised by the Examiner, the specification has been amended to clarify that the view in FIG. 2 also illustrates the single interference arm embodiment referred to in the claims and in the specification at column 4, lines 1-4 of the specification.

The surrender of the original Letters Patent, duplicate formal drawings and filing of a revised supplemental reissue oath or declaration are formalities that will be attended to swiftly following entry of this second supplemental amendment.

The Changes to Claims 15 and 29 to define over Neri

Neri discloses a thin metal housing formed of a single "contoured plate" (Col. 2, line 21 of Neri) that acts as a guide for insertion and restraining of the covered can on the shelf. In particular, the plate has a bent portion 2 comprising a slant portion 2" and a horizontal portion 2'. For each can location, an opening 5 is formed in the housing through the slant portion 2" and horizontal portion 2'. Each opening has two regions: an upper region, portion 5', as shown in Fig. 1, formed through the slant portion 2"; and a lower region 5" formed in the horizontal portion 2'. Here is what Neri says these two distinct regions are for:

... the slanted front portion 5' of the mentioned openings will allow a paint can 8 to be properly arranged on a shelf element 9 of the stirring apparatus, *whereas the horizontal portion 5" of the same opening will restrain or lock protecting or cam portions formed on the cover 10 of the paint can.*

(Col. 2, lines 38-43; emphases added.)

Comparing the two regions of the opening, Neri states:

The horizontal portion 5" of that same opening, on the other hand, has a profile which is defined by corresponding broken lines so as to provide, in

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succession, corresponding rectangular seats indicated respectively at 15, 15' and 15" and having increasing widths.

(Col. 2, lines 49-53; emphasis added.)

As shown in FIG. 4 of Neri, when the can with cover is inserted on the shelf, the locking element (spout) 16 mates with the rear seat 15" and the cover-locking cams mate with the other seats so that the can is "firmly restrain[ed]", per even the Summary of the Invention (col. 1, line 58), in a single orientation about the central stirring axis of the covered can. Thus, Neri describes a system for firmly locking the cover in a single orientation. Indeed, to accommodate different size spouts, Neri proposes, "for the above mentioned inner-most seat, small width variations can be provided, by using suitable spacer elements." (Col. 2, line 63-64). This, one would assume, would be for the purpose of insuring a match between the notch 15" and the spout width, so that it is firmly locked in place, as shown in FIG. 4 of Neri.

In any case, it is clear that Neri teaches a sort of docking station where the covered can can only be inserted and properly seated in the stirring apparatus in one fixed orientation of the can about its axis, so that the spout aligns with, mates with and is trapped between the sides of the notch 15" and the other notches catch the cams. The can cover, so inserted in Neri, is incapable of being rotated about its axis in either direction, i.e., clockwise or counterclockwise. A problem with Neri is that care must be exercised in inserting the can to make sure it is in a single fixed orientation as it is being inserted so that the can cover will properly mate with the matching profile of the openings.

In contrast, the invention, as recited in amended claims 15 and 29, recites a downwardly extending interference arm that acts as a stop by interfering with the cover. The recited feature differs from Neri in at least two respects. First, the only part of Neri's sheet metal shroud that contacts the cover when the can is fully inserted is the profiled portion 5". The profiled portion 5" with the graduated notches or seats is formed exclusively in a thin *horizontal* portion of the plate parallel to the shelf. As quoted above, the Neri patent takes pains to distinguish the functions of the horizontal and slanted portions of the openings. Thus, the element of Neri that contacts and locks the cover is not vertical or slanted but expressly horizontal, and it is therefore does not teach an interference arm *downwardly extending* from the stirring head toward the shelf. In addition, however, the profiled opening portion 5" of Neri is not an interference arm that acts

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as a stop by interfering with the cover so as to prevent (any further) rotation of the cover in the single direction of the stirrer's rotation as recited in the amended claims. This is accomplished in the Lesimple patent not by firmly docking the can cover with a mating structure to firmly lock the can in one orientation, but by merely stopping the can's "possible rotation" (col. 4, line 63) in the direction of the rotation of the stirrer. The covered can is free to be inserted in other orientations, whereupon the interference arm will eventually stop the rotation of the can. This arrangement frees the user from having to orient the can in a single unique orientation while inserting it on the shelf and eliminates the need for other interfering obstructions to lock the can in place.

Support for the new limitations in the claims, as amended:

A stated objective of the Lesimple patent is to avoid the projecting pins previously used on shelves for "securely retaining the base of the can" and "locking the cans." Column 1, lines, 19 and 24.) The fact that the invention may be achieved with a single interference arm is expressly stated at column 4, lines 1-4. The fact that the can is free to be inserted in other than its final orientation is explicitly illustrated by the following passage of Lesimple:

As soon as the plate 22 is driven in rotation by the small blade 4 and fingers 23, the can 16 is *possibly rotated* a little bit, but in any case, one attachment 19, for example the pouring nose, will limit the *possible rotation* of the can of which only the shaft 18 continues to be driven, which is shown in FIGS. 6 and 7.

Column 4, lines 61-65; emphasis supplied.

The possibility of this pre-interference rotation exists because the region between the stirring head and the shelf is free of obstructions that would restrain insertion of the can or the cover to a single orientation on the shelf. Indeed, one of the noted advantages of the invention is that the shelves themselves can be completely smooth. (Col. 1, lines 31-33.) In addition, the insertion of the can is not limited to a single orientation because even if the can is inserted in a different orientation and rotates with the stirrer, it will come to a final resting place in a single orientation when the cover hits the interference arm. These features, which are explicit in the drawings and functional description of the operation of the stirring system, have been further clarified by the amendments to the specification.

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In both independent claims 15 and 29, the stirring head element has been amended to include the following underlined language: "a stirring head positioned above the shelf that engages the stirrer when the can is inserted on the shelf." This limitation is supported by FIGS. 3-9, which depict insertion of the can and engagement of the stirrer driving plate 22 by the blade 14.

To overcome the indefiniteness rejections of claims 18 and 35, the following underlined language has been added: "the interference arm is pivotable with respect to the stirring head." Support for this pivoting reference is found in FIGS. 2 and 3, where bearing member 10a pivotably connects the yoke 12a of the stirrup 12 to the body 10 of the stirring head 4, as described in column 3, lines 59-67 and column 4, lines 56-65.


Thus, in view of the foregoing remarks and observations, it is submitted that the language of amended claims 15 and 29 is fully supported and defines patentably over the teachings of Neri.

Attached is a marked-up version of the changes being made by the current amendment.

Applicant asks that all claims be allowed. Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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